

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2004-380

June 11, 2004

BANGOR HYDRO-ELECTRIC COMPANY
Request for Approval of Special Rate Contract
With Lincoln Paper and Tissue Company and of
Guaranty of Supply Contract

ORDER APPROVING
STIPULATION
(PART I)

WELCH, Chairman; DIAMOND and REISHUS, Commissioners

We approve a Stipulation whereby Bangor Hydro-Electric Company (BHE), Lincoln Paper and Tissue, LLC (Lincoln) and the Office of the Public Advocate recommend that the Commission approve a special rate contract between BHE and Lincoln.

Lincoln is a new customer of BHE, having purchased the papermaking facility in Lincoln, Maine from the United States Chapter 7 Trustee of Lincoln Pulp and Paper Company's (LPP) Bankruptcy Estate on May 28, 2004. LPP had received a special rate agreement from BHE on June 27, 2001, approved by the Commission in Docket No. 2001-434. (Part I Order, June 27, 2001, Part II Order, July 17, 2001). The Commission approved an amendment to the 2001 BHE-LPP special rate agreement on April 30, 2002. The original and amended 2001 agreements resolved issues that arose because of BHE and LPP's pre-Restructuring special rate contract, by which BHE supplied electricity service not just T&D service, and required that BHE provide a credit guaranty and a take-or-pay obligation to LPP's electricity supplier.

Sprague Energy Corp (Sprague) was provided a guaranty by BHE pursuant to the amended 2001 special rate agreement. LPP's default under the supply agreement with Sprague resulted in BHE being called upon to perform under its guaranty to Sprague in Jan. 2004. A dispute arose between BHE and Sprague as to each other's rights and obligations. As the BHE-Sprague Guaranty Agreement provided that disputes would be resolved by the Commission, BHE filed a petition to resolve the dispute on April 8, 2004. (Docket No. 2004-239).

The new special rate contract between BHE and Lincoln (the 2004 Special Rate Agreement) is intended to provide discounted delivery service to the Lincoln facility, although with greater contribution to BHE than the special rate agreements with LPP. In conjunction with the 2004 Special Rate Agreement, and to assist Lincoln in obtaining reasonably priced energy supply, Lincoln and Sprague have agreed to a new 10-month electricity supply contract, BHE and Sprague have settled their dispute under the LPP-Guaranty Agreement, and BHE and Sprague have entered into a new Guaranty Agreement whereby BHE guarantees Lincoln's new electricity supply agreement with Sprague. The 2004 Special Rate Contract also provides Lincoln with the option of obtaining a BHE credit guaranty and take-or-pay provision for a new electricity supply contract thru May 31, 2006.

In addition to approval of the 2004 Special Rate Agreement, the parties recommend that the Commission 1) grant BHE an accounting order as described in the Stipulation, 2) authorize BHE to enter into the 2004 Guaranty Agreements with Sprague and a subsequent 2005 guaranty agreement (not to extend beyond May 31, 2006) if in the same form, and 3) find that BHE has acted prudently by entering into the 2004 Special Rate Agreement and the 2004 Guaranty Agreement, by moving to dismiss its Petition in Docket No. 2004-239 and agreeing with Sprague to the Settlement and Mutual Release Agreement (attached to its Motion in Docket No. 2004-239).

We find that the Stipulation represents a fair and reasonable resolution to the issues presented by BHE's petition in this Docket, as well as its petition in Docket No. 2004-239. We also find that BHE acted reasonably and prudently by executing the 2004 Special Rate Agreement with Lincoln, and the other agreements described above executed in conjunction with the 2004 Special Rate Agreement. We issue our Order in two parts. In this part, we state our conclusions and findings, and issue ordering paragraphs necessary for Lincoln and BHE to execute the necessary documents. We will issue Part II explaining the rationale for our conclusions and findings in the near future.

Accordingly, we

O R D E R

1. That the Stipulation filed today in this docket is approved;
2. That the Special Rate Agreement attached to the Stipulation is approved pursuant to 35-AM.R.S.A. § 703;
3. That the Guaranty Agreement between Bangor Hydro-Electric Company and Sprague Energy Corp., attached to the Special Rate Agreement, is approved pursuant to 35-A M.R.S.A. § 902;
4. That Bangor Hydro-Electric Company shall account for its transactions involving the Special Rate Agreement, and all the related contracts and agreements, in a manner consistent with the Stipulation approved by this Order;
5. That, the notice requirement of Section 2(D)(3) of Chapter 301 of our Rules is waived for Lincoln Paper and Tissue LLC's purchase of generation service for Sprague; and,

6. That, as a new customer as of May 28, 2004, Lincoln Paper and Tissue LLC is not subject to an opt-out fee under Chapter 301(10) of our Rules.

Dated at Augusta, Maine, this 11th day of June, 2004.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
 Diamond
 Reishus

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.